

701—64.15(452A) State of Iowa, political subdivisions, or regional transit systems.

64.15(1) For periods prior to July 1, 1983. When motor fuel is sold directly to the state of Iowa, its agencies, or a political subdivision of the state, it shall be sold tax-paid. This tax will then be refundable to the exempt body purchasing such fuel.

64.15(2) For periods after June 30, 1983. When motor fuel is sold directly to the state of Iowa, its agencies, a political subdivision of the state, or a regional transit system, is used for public purposes or a purpose specified in Iowa Code section 452A.57(11), and is placed into a storage tank, of any size, owned or used exclusively by the state, its agencies, a political subdivision of the state or a regional transit system, the motor fuel may be sold tax-free. (See subrule 64.3(4).) Any motor fuel sold to the state of Iowa, its agencies, a political subdivision of the state or a regional transit system, which is not placed into storage, as defined above, shall be sold tax-paid and the refund provisions apply.

64.15(3) The refund is not available to agencies or instrumentalities of a political subdivision, but rather, only to the state of Iowa, agencies of the state of Iowa, and political subdivisions of the state of Iowa. The general attributes and factors in determining if an entity is a political subdivision of the state of Iowa are: (1) the entity has a specific geographic area, (2) the entity has public officials elected at public elections, (3) the entity has taxing power, (4) the entity has a general public purpose or benefit, and (5) the foregoing attributes, factors or powers were delegated to the entity by the state of Iowa. (1976 O.A.G. 823.) The refund is also not available to employees of an exempt governmental unit who purchase fuel individually and are later reimbursed by the exempt unit. The name of the exempt governmental unit must appear on the invoice as the purchaser of the fuel or the refund will not be allowed. *Alabama v. King & Bozer*; 314 U.S. 1 (1941). These refunds may be obtained by filing a quarterly report (calendar quarter) with the department setting out (1) the name of the exempt body, (2) the amount of fuel purchased tax-paid, (3) the amount of tax subject to refund, and (4) the registration number of the exempt body. The claim for refund must be filed with the department, as determined by rule 701—63.6(452A), within one year of the time the tax was due; therefore, if in any one quarter, the exempt body has no refund coming, or a very small refund coming, the exempt body need not file. The exempt body so filing must retain the invoice, or other evidence of purchase meeting the same requirements, for a period of three years. (See rule 701—63.13(452A) for requirements as to form.) And such documents shall be available for inspection by the department upon request. The request of all taxes paid on special fuel shall be reported at the same time, in the same manner, and subject to the same requirements.

This rule is intended to implement Iowa Code sections 452A.3 and 452A.35.